

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
HELAL AHMED, PARVEZ ALI, MD.G. MIAH,  
ENAMUL SHAKUR

Plaintiffs,

v.

DEVI RESTAURANT, LTD. , and RAKESH  
AGGARWAL,

Defendants  
-----X

**ANSWER**

07 CV 3512 (J.S.R)

**Jury Trial Demanded**

Defendants, 8 East 18<sup>th</sup> Street Restaurant, LLC, s/h/a Devi Restaurant, Ltd., (“Devi”), and Rakesh Aggarwal, by their attorneys Mitchell & Incantalupo, as and for their answer to the Complaint of the Plaintiffs, upon information and belief, allege and state that they:

**PRELIMINARY STATEMENT**

1. Deny the allegations set forth in paragraph “1” of the Complaint, except admit that Plaintiffs purport to proceed against Defendants as set forth therein.
2. Deny the allegations set forth in paragraph “2” of the Complaint, except, admit that the Plaintiffs have worked, and as of the date of this Answer, do work for Defendant Devi.
3. Deny the allegations set forth in paragraph “3” of the Complaint.
4. Deny the allegations set forth in paragraph “4” of the Complaint, except admit that Plaintiffs purport to proceed as set forth therein.

**JURISDICTION**

5. Deny the allegations set forth in paragraph “5” of the Complaint, except admit that the jurisdiction of this Court is purportedly invoked as set forth therein.

6. Deny the allegations set forth in paragraph "6" of the Complaint, except admit that Plaintiffs purport to proceed as set forth therein.

7. Deny the truth of the allegations set forth in paragraph "7" of the Complaint, except admit that the venue of this court is purportedly invoked as set forth therein, and that Devi is located in Manhattan.

### **PARTIES**

8. Deny the allegations set forth in paragraph "8" of the Complaint; except admit that Plaintiffs work as Busser, Stocker, Waiter, and or Runner for Devi.

9. Deny that they possess knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph "9" of the Complaint.

10. Deny the allegations set forth in paragraph "10" of the Complaint.

11. Deny the allegations set forth in paragraph "11" of the Complaint, except admit that Devi has annual gross sales in excess of \$500,000.00. Defendants further affirmatively respond that Devi is a limited liability corporation formed and organized under the laws of the State of New York in 2002 under the name 8 East 18<sup>th</sup> Street Restaurant, LLC.

12. Deny the allegations set forth in paragraph "12" of the Complaint.

13. Deny the allegations set forth in paragraph "13" of the Complaint.

### **STATEMENT OF FACTS**

14. Deny the allegations set forth in paragraph "14" of the Complaint.

15. Deny the allegations set forth in paragraph "15" of the Complaint.

16. Deny the allegations set forth in paragraph "16" of the Complaint.

17. Deny the allegations set forth in paragraph "17" of the Complaint.

18. Deny the allegations set forth in paragraph "18" of the Complaint.

19. Deny the allegations set forth in paragraph "19" of the Complaint.

- 20. Deny the allegations set forth in paragraph "20" of the Complaint.
- 21. Deny the allegations set forth in paragraph "21" of the Complaint.
- 22. Deny the allegations set forth in paragraph "22" of the Complaint.
- 23. Deny the allegations set forth in paragraph "23" of the Complaint.
- 24. Deny the allegations set forth in paragraph "24" of the Complaint.
- 25. Deny the allegations set forth in paragraph "25" of the Complaint.
- 26. Deny the allegations set forth in paragraph "26" of the Complaint.
- 27. Deny the allegations set forth in paragraph "27" of the Complaint.

**FIRST CAUSE OF ACTION**

28. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs "1" through "27" as if more fully set forth at length herein.

- 29. Deny the allegations set forth in paragraph "29" of the Complaint.
- 30. Deny the allegations set forth in paragraph "30" of the Complaint.
- 31. Deny the allegations set forth in paragraph "31" of the Complaint.

**SECOND CAUSE OF ACTION**

32. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs "1" through "31" as if more fully set forth at length herein.

- 33. Deny the allegations set forth in paragraph "33" of the Complaint.
- 34. Deny the allegations set forth in paragraph "34" of the Complaint.
- 35. Deny the allegations set forth in paragraph "35" of the Complaint.

**THIRD CAUSE OF ACTION**

36. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs "1" through "35" as if more fully set forth at length herein.

- 37. Deny the allegations set forth in paragraph "37" of the Complaint.
- 38. Deny the allegations set forth in paragraph "38" of the Complaint.
- 39. Deny the allegations set forth in paragraph "39" of the Complaint.

40. Deny the allegations set forth in paragraph "40" of the Complaint.

**FOURTH CAUSE OF ACTION**

41. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs "1" through "40" as if more fully set forth at length herein.

42. Deny the allegations set forth in paragraph "42" of the Complaint.

43. Deny the allegations set forth in paragraph "43" of the Complaint.

44. Deny the allegations set forth in paragraph "44" of the Complaint.

**FIFTH CAUSE OF ACTION**

45. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs "1" through "44" as if more fully set forth at length herein.

46. Deny the allegations set forth in paragraph "46" of the Complaint.

47. Deny the allegations set forth in paragraph "47" of the Complaint.

48. Deny the allegations set forth in paragraph "48" of the Complaint.

**SIXTH CAUSE OF ACTION**

49. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs "1" through "48" as if more fully set forth at length herein.

50. Deny the allegations set forth in paragraph "50" of the Complaint.

51. Deny the allegations set forth in paragraph "51" of the Complaint.

52. Deny the allegations set forth in paragraph "52" of the Complaint.

**SEVENTH CAUSE OF ACTION**

53. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs "1" through "52" as if more fully set forth at length herein.

54. Deny the allegations set forth in paragraph "54" of the Complaint.

55. Deny the allegations set forth in paragraph "55" of the Complaint.

56. Deny the allegations set forth in paragraph "56" of the Complaint.

**EIGHTH CAUSE OF ACTION**

- 57. Deny the allegations set forth in paragraph "57" of the Complaint.
- 58. Deny the allegations set forth in paragraph "58" of the Complaint.
- 59. Deny the allegations set forth in paragraph "59" of the Complaint.

**NINTH CAUSE OF ACTION**

60. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs "1" through "59" as if more fully set forth at length herein.

- 61. Deny the allegations set forth in paragraph "61" of the Complaint.
- 62. Deny the allegations set forth in paragraph "62" of the Complaint.
- 63. Deny the allegations set forth in paragraph "63" of the Complaint.

**TENTH CAUSE OF ACTION**

64. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs "1" through "63" as if more fully set forth at length herein.

65. Deny that they possess knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph "65" of the Complaint.

- 66. Deny the allegations set forth in paragraph "66" of the Complaint.
- 67. Deny the allegations set forth in paragraph "67" of the Complaint.

**ELEVENTH CAUSE OF ACTION**

68. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs "1" through "67" as if more fully set forth at length herein

- 69. Deny the allegations set forth in paragraph "69" of the Complaint.
- 70. Deny the allegations set forth in paragraph "70" of the Complaint.
- 71. Deny the allegations set forth in paragraph "71" of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

72. The Complaint fails to state a claim, in whole or in part upon which relief may be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

73. Defendants had legitimate business reasons for taking any of the acts alleged by the plaintiffs to have been retaliatory.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

74. Plaintiffs have failed to mitigate their alleged damages.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

75. All or part of the claims asserted herein by Plaintiffs are barred by the applicable statute of limitations.

**WHEREFORE**, defendants request judgment dismissing the Complaint and denying all relief requested therein, together with the costs of defending this action, including reasonable attorney fees.

Dated: June 21, 2007  
Forest Hills, New York

MITCHELL & INCANTALUPO

By:                     /S/                      
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